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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/455,664	12/07/1999	KLAUS MELGAARD	PHB-34-305	5449

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EXAMINER

OCAMPO, MARIANNE S

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/455,664

Applicant(s)

MELGAARD ET AL.

Examiner

Marianne S. Ocampo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,9-11 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,9-11,15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 15, 2 – 4, 6 and 9 – 11 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Flynn et al. (US 6,383,381B1).

3. Concerning claim 15, O'Flynn et al. disclose a filter for use with a water heating vessel capable of removing sedimentary (particulate) material including scale from the water, wherein the filter comprises a first mesh material (34) provided with a frame (32, 26) and a scale collector (38, 49) separate from the first mesh material (34) and coupled to the frame (32, 26) and the scale collector comprising a block (i.e. shaped like a block or into a cartridge) of compressed (this term "compressed" has been considered by the examiner to mean "configured or shaped") mesh material (49) different from the first mesh material (34) and having a surface (including that of the mesh material and treatment media surfaces which may be used also in removing the scale from the water) to which the scale would be attracted, as in figs. 18 - 19 and cols. 1 - 5.

4. With regards to claim 2, O'Flynn et al. also disclose the scale collector being supported by a carrier member (frame 38 surrounding the mesh 49 and shoulders 36) on the frame (26) of the filter, as in figs. 17 - 19.

5. Regarding claim 3, O'Flynn et al. disclose the carrier member (i.e. frame 38) being detachably mounted (i.e. removable) on the frame (26, 32), as in cols. 1 - 5.

6. With respect to claim 4, O'Flynn et al. further disclose the carrier member (i.e. frame 38), with the mesh material 49 and/or treatment media contained therein, could be permanently mounted on the frame (26), as in col. 4, lines 17 - 21.

7. Regarding claim 6, O'Flynn et al. further disclose the carrier member (frame 38) being situated on a part (36) of the frame away from the first mesh material (34), as in fig. 18.

8. With respect to claim 9, O'Flynn et al. also disclose the scale collector being carried on the frame (26, 32) towards an end thereof which in use in a water heating vessel (10) is closest to the bottom of the vessel (10), as in figs. 1 and 18 - 19.

9. Concerning claim 10, O'Flynn et al. further disclose a water heating vessel (10) including the filter according to claim 15 (see paragraph 3 above) removably mounted within the vessel (10) and extending over a water outlet of the vessel (10), as in fig. 1 and cols. 1 - 5.

10. With regards to claim 11, O'Flynn et al. disclose the water heating vessel comprising a kettle (10), as in cols. 1 - 5 and fig. 1.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Flynn et al. in view of Martindale (US 866,796).

13. Concerning claim 5, O'Flynn et al. fail to disclose the scale collector (in the form of mesh material 49) being removably mounted on the carrier member (i.e. frame 38). Martindale teach a scale collector comprising a block (here, "a block means "a square configuration or a piece") of compressed (configured or shaped) mesh (wire fabric, 10) material capable of removing scale from water in which the mesh material (wire fabric)/scale collector (10) is removably mounted on a carrier member (frame 8, 9), as in figs. 1 - 4 and page 1. It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the arrangement/design of the scale collector of O'Flynn et al. on the carrier member such that it would be removably mounted on the carrier member as taught by Martindale, in order to provide an improved filter which has a scale collector/mesh element which can be cheaply and easily replaced upon its damage or clogging, without having to throw away or replacing the entire scale collector assembly (mesh material plus its carrier member) in order to save costs of replacing/manufacture of the entire scale collector assembly (see page 1 of Martindale's specification).

Allowable Subject Matter

14. Claim 13 has been previously indicated to contain allowable subject matter. (see Last Office Action, Paper no. 20, pages 6 – 7)

15. The following is a statement of reasons for the indication of allowable subject matter: the closest prior art is O'Flynn et al. (US 381) and Martindale (US 796). O'Flynn et al., and Martindale, alone or in proper combination, have failed to disclose or rendered obvious a filter having the limitation recited in the base claim 13 in particular, having the limitation of the carrier member having a part extending through a bore in the compacted (this term "compacted" has been considered to mean "compressed or configured or shaped into") mesh block (which forms the scale collector) and the compacted mesh block being rotatable around said part.

Response to Arguments and Amendments

16. Applicants' arguments filed on 1-6-03 (see page 4 of the response and amendments filed on 1-6-03, Paper no. 23) have been considered but are not found persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The original specification provides support for a scale collector (designated as 25) comprising "a block of stainless steel wire mesh

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compacted into a generally cylindrical form”, as in pages 4 – 5, but not for a block of *compressed mesh* material, as in now presented new claim 15. First of all, since the examiner is unclear if claim 15 is narrowing the term/limitation “a block” to constitute only a cylindrical form taught by the specification, or possibly the term “block” including other shapes or configurations which may be of a planar, square or rectangular configuration taught by the prior art (O’Flynn or Martindale), the examiner has broadly interpreted the term “block of compressed mesh material” to be any configuration/piece of mesh material shaped or configured (i.e. compacted) into any particular shape (including of a cylindrical and/or planar form) which has the ability to remove scale (particulates) in water. Furthermore, applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

17. Since there aren't new prior art introduced to reject the new claim 15 and old claims 2 – 6 and 9 – 11 in this office action, accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-1039. The examiner can normally be reached on Mondays to Fridays from 8:00 A.M. to 4:30 P.M..

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

20. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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MSO

M.S.O.

March 17, 2003

Walker

W. L. WALKER

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